

# Notice of Allowability

Application No.

09/718,595

Examiner

Zarni Maung

Applicant(s)

KIKINIS, DAN

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/7/07.
2. ☒ The allowed claim(s) is/are 35-56 (now renumbered claims 1-22).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**


4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**ZARNI MAUNG**  
**PRIMARY EXAMINER**

This action is responsive to the amendment and remarks filed on August 7, 2007.

Claims 35-58 are presented for further examination, and claims 1-34 have been canceled.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I) Claims 35-56 system and method for providing future programming information by a scanning module and a database which is repeatedly scanned to identify one or more future programming information items comprises at least one web page, classified in Class 709, subclass 684.

Group II) Claims 57-58 are drawn to method having a least one active page includes a command for controlling one or more functions of a set-top box, classified in Class 725, subclass 2.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, and II are disclosed as different inventions which are not connected in design, operation or effect. These inventions are independent if it can be shown that (1) they are not disclosed as capable of use together, (2) they have different modes of operation, (3) they have different functions, or (4) they have different effects. (MPEP 806.04, MPEP 808.01).

In the instant case, invention I is directed to a method for providing future programming information by a scanning module and a database which is repeatedly scanned to identify one or more future programming information items comprises at least one web page. The invention II is directed to a method having a least one active

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page includes a command for controlling one or more functions of a set-top box. Therefore, inventions I and II have different functions, different modes of operation and they have different effects.

20. These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the four inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) the Group I search (claims 35-56) would require use of search **Class 709, subclass 231** ( not require for the invention II).

(b) the Group II search (claims 57-58) would require use of search **Class 725, subclasses 2** ( not require for the invention I).

A telephone call was made to Mr. Chunhsi Andy Mu to request an oral election to the above restriction requirement, and applicant's representative elected claims 35-56.

**Examiner's Amendment**

An examiner amendment to the record appear below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Mr. Chunhsi Andy Mu (Reg. No. 58,216) on October 15, 2007.

**In the claims**

Please cancel claims 57-58.

The following is an examiner's Statement of Reasons for Allowance:

The pending claims 35-56 are allowable over the applied art of record for the following reasons:

None of the art of record teaches or suggests all the limitations recited in the claims.

The examiner has found persuasive appellant's arguments in the remarks filed on August 7, 2007. None of the prior art of record teaches "wherein the database is repeatedly scanned by the scanning module to identify one or more future programming information items stored therein, wherein the identified future programming information items are broadcast in a displayable single data stream to the broadband receiver, and

wherein the identified one or more future programming information items comprise at least one web page accessible to devices other than set-top boxes from a first content source of the one or more content sources" as recited in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zarni Maung whose telephone number is (571) 272-3939. The Examiner can normally be reached on Monday-Friday from 8:30 to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Valencia Martin-Wallace can be reached at (571) 272-3440. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free).

Any response to this action should be mailed to:  
Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Hand carried or delivered to:  
Customer Service Window located at the Randolph Bldg. 401  
Dulany St. Alexandria, VA 22314

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Faxed to the Central Fax Office:

(571) 273-8300 (New Central Fax No.)

Or Telephone

(571) 272-2100 for TC 2100 Customer Service Office.